IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FOURTEENTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO : 19168 of 2004

Between:

1 Chenchugari Anasuyamma, W/o.Mahanandi,
R/o.H.No.6-7-626, Sreepuram Colony, K.T.Road., Tirupati.
2 C.Sreedhar Rao, S/o.C.Mahanandi,
H.No.395, 20th Main, 4th cross Road, Srinagar, B.S.K.first

Gate, Bangalore-50.
3 C.Sreekanth, S/o.C.Mahanandi,
Pilot officer, officers Mess, Air Force Station,
Lohegaon, Pune, 411032, Maharastra State.
4 C.Sreenivasa Murthy, S/o.C.Mahanandi,
H.No.18-2-192/A, Ashoknagar, Tirupati, Chittoor Dist.

..... PETITIONERS

AND

1 The Dist. collector, Kurnool.
2 The Revenue Divisional officer cum Land Acquisition officer,

Nandyal, Kurnool Dist.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of writ of Mandamus, declaring the inaction of the 2nd respondent in referring the case of the petitioners under section 28-A of the Land Acquisition Act to the 1st respondent for re- determining the market value as per the award passed by the subordinate Judge, Nandyal, Kurnool District in O.P.No.28 of 1992, dated 1-12-1997 as illegal, arbitrary and unconstitutional, and to pass.

Counsel for the Petitioners:MR.P.VENGALA REDDY

Counsel for the Respondents 1 and 2: GP FOR REVENUE

The Court, at the stage of admission, made the following :

ORDER:

Heard the learned counsel for petitioners and the learned Government Pleader for Land Acquisition. With the consent of both the parties the writ petition is disposed of at the stage of admission.

Assailing the action of the second respondent in not referring their case to the first respondent under Section 28-A of the Land Acquisition Act, for re-determining the market value as per the Award passed by the Subordinate Judge, Nandyal, Kurnool district in O.P.No.28 of 1992 dated 1.12.1997, the petitioners have filed the present writ petition.

The petitioners who claim to be the owners of land, to an extent of Ac.11.43 cents i.e., Ac.2.59 cents in Sy.No.365/1B, Ac.3.08 cents in Sy.No.362/2A and Ac.5.76 cents in Sy.No.368/1 situated at Moolasagram village, was acquired by the second respondent by fixing the market value at Rs.6,000/- per acre vide award No.22/86 dated 23.9.1986, and the petitioners protested for the same. The petitioners contend that the second respondent did not refer the matter to the Civil Court on the ground that they did not file petition under Section 18 of the Land Acquisition Act (for short 'the Act') and that in the same award, second respondent also acquired lands of others and referred their cases to Civil Court under Section 18 of the Act, which was numbered as O.P.NO.28 of 1992 on the file of the Subordinate Judge, Nandyal and the learned Subordinate Judge enhanced the compensation from Rs.6,000/- to Rs.40,000/- per acre, by his order dated 1.12.1997. On coming to know about the enhancement, petitioners made an application under Section 28-A of the Act for re-determination of the market value on par with the claimants in O.P.No.28 of 1992. On such application, the second respondent issued endorsement, dated 23.2.1999, stating that against the order passed by the reference Court in O.P.No.28 of 1992, the Government proposing to file appeal in High Court, and the petition under Section 28-A is rejected. The petitioners' complaint is that even after dismissal of the said appeal A.S.No.553 of 1998 by the High Court and the Special Leave Petition against the same by the Supreme Court, the respondents so far have not taken any steps to re-determine the compensation.

There is no dispute and in fact learned Government Pleader has rightly not supported the rejection of application filed under Section 28-A, since the Land Acquisition Officer has to keep the application filed under Section 28-A (1) pending till the disposal of appeal filed against the award of Civil Court, and has to take action under Section 28-A (1) after disposal of appeal. In view of the same, the impugned endorsement in R.C.G.410/94 dated 23.2.1999 rejecting the petition filed under Section 28-A is set aside. The writ petition is accordingly allowed and the respondents are directed to consider the application filed by the petitioners under Section 28-A of the Act for re-determination of compensation, and pass appropriate orders thereon, within a period of four months from the date of receipt of a copy of this order. On such re-determination, the differential compensation, if any, has to be paid to the petitioners. No order as to costs.

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A.GOPAL REDDY, J

Date: 14.10.2004

ts

To

1 The Dist. collector, Kurnool.
2 The Revenue Divisional officer cum Land Acquisition officer,

Nandyal, Kurnool Dist.

3 Two CCs to the G.P. for Land Acquisition, High Court

Buildings, Hyderabad (OUT).

4 Two CD copies.